

PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION
TUESDAY, OCTOBER 25, 1994

CITY OF FORT WAYNE, INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE
COUNCIL CHAMBERS TUESDAY EVENING OCTOBER 25, 1994,
IN Regular SESSION. PRESIDENT Archie L. Lunsey
IN THE CHAIR, COUNCIL ATTORNEY _____, AND
Sandra E. Kennedy CITY CLERK, AT THE DESK, PRESENT THE
FOLLOWING MEMBERS _____ VIZ:

BRADBURY <u>✓</u>	EDMONDS <u>✓</u>	GIAQUINTA <u>A</u> <i>Late</i>
HENRY <u>✓</u>	LONG <u>✓</u>	LUNSEY <u>✓</u>
RAVINE <u>✓</u>	SCHMIDT <u>✓</u>	TALARICO <u>✓</u>

ABSENT: _____

COUNCILMEMBER: _____

THE MINUTES OF THE LAST REGULAR October 11, 1994,

_____, 19____,
SPECIAL _____, 19____.

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION,
APPROVED AND PUBLISHED.



The City of Fort Wayne

Paul Helmke, Mayor

October 12, 1994

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the vacation of dedicated right-of-way.

The proposed ordinance is designated as:

Bill No. G-94-09-13

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
12th day of October 1994.

Carol Kettler Sharp
Secretary

/pb

CC: File

Division of Community Development & Planning

G-94-09-13

BILL NUMBER

BRIEF TITLE

Alley Vacation Ordinance

APPROVAL DEADLINE

REASON

DETAILS

<p>Specific Location and/or Address The south 6 inches of the East/West alley north of Pennsylvania Street and east of Warren Street.</p>
<p>Reason for Project</p> <p>To clear an encroachment.</p>
<p>Discussion (Including relationship to other Council actions)</p> <p><u>19 September 1994 - Public Hearing</u></p> <p>Timothy Lawson, 9915 Spur Creek Ct, appeared before the Commission. Mr. Lawson stated that they are asking the city to vacate the south 6 inches of the alley that runs south of their property. He stated that the reason for the request is that part of their financing package, that was started almost a year ago with the CDC, was contingent upon getting this encroachment taken care of. He stated that when they started financing they were unaware of the encroachment. He stated that NBD Bank financed the property in two sections, one-half of the mortgage value of the property and another half of the mortgage value of the property that the CDC was supposed to assume. He stated that the CDC's approval on financing is contingent upon them obtaining this vacation.</p> <p>Dave Ross asked if they had tried to obtain an encroachment agreement from the Board of Works.</p> <p>Mr. Lawson stated that they have already applied for and received an encroachment</p>

POSITIONS

RECOMMENDATIONS

Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) Advanced Cutting Systems, Inc City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	<input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
Board or Commission Recommendation	By <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

agreement from the Board of Works. He stated that as an addendum to that agreement they stated that at any time they could come back and rescind that encroachment, which CDC did not find acceptable.

Tom Obergfell, with NBD bank appeared before the Commission. Mr. Obergfell stated that he was the loan officer on this account. He stated that the initial deal basically fell apart when the encroachment was omitted from the survey report. He stated that it was on the drawing, but not in the report, which is why they closed their end of the deal. He stated that CDC's attorney Mike Mustard saw the encroachment and that is where they hit the roadblock. He stated that they felt it was a good thing for the bank and the city.

There was no one else present who spoke in favor or in opposition to the proposed vacation.

26 September 1994 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation, contingent upon the petitioner providing utility easements or relocations as may be necessary.

Of the seven (7) members present, six (6) voted in favor of the motion, the Chair did not vote. Motion Carried.

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

Members Present: Linda Buskirk, Ernest Evans, James Hoch, Dave Ross, Carol Kettler Sharp, Mel Smith, Vicky VerPlanck

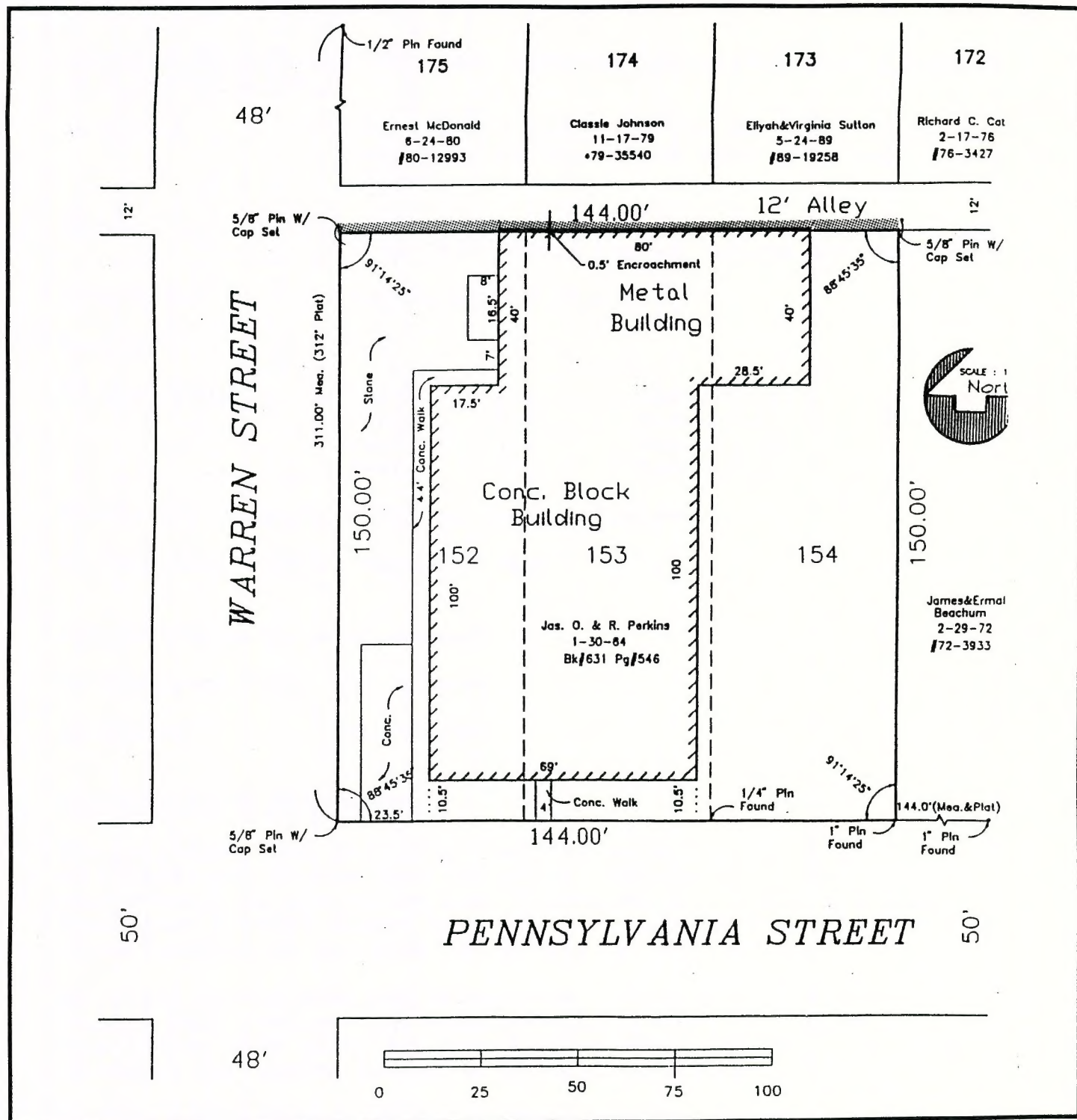
Members Absent: Mark GiaQuinta, Thomas Quirk

Project Start	Date	17 August 1994
Projected Completion or Occupancy	Date	12 October 1994
Fact Sheet Prepared by	Date	12 October 1994
Patricia Biancaniello		
Reviewed by	Date	
		
Reference or Case Number		

VACATION PETITION

AREA MAP

CASE NO. #567



COUNCILMANIC DISTRICT NO. 1

Map No. P-2
LW 8-22-94

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

Advanced Cutting Systems, Inc. requests the vacation of a portion of a public alley.

Location: The south 6 inches of the E-W alley north of Pennsylvania Street and east of Warren Street.

Legal: South 6 inches of the 12 foot alley north of lots 152-153 and 154 in Vodermarks' Addition.

Land Area: Approximately 72 Sq. Ft.

Zoning: M-2

Surroundings:

North	R-1	Residential
South	M-2	Industrial
East	M-2	Residential
West	M-2	Industrial

Reason for Request: Clear up an encroachment

Neighborhood Assoc.: Memorial Park

Comprehensive Plan: No comment.

Neighborhood Plan: No comment.

Landscape: No comment.

Planning Staff Discussion:

The petitioner has indicated that the existing building encroaches six inches into the alley right-of-way. This encroachment is preventing some financing from being obtained. Petitioner further states that the encroachment came about when a building addition was made in the mid to late 1970's.

The alley is unopened and unimproved. Existing utilities are present both overhead and underground. It does not appear that this twelve foot alley is necessary to future growth, nor is it necessary for access to public or private places.

Staff's preference would be to see a vacation petition for the entire alley. We understand that was the original intent of the petitioner, but he has been unable to obtain the cooperation of the other abutting property owners. The petition that has been filed therefore is only for the south six (6) inches of the alley, and the petitioner is therefore the only abutting property owner.

As staff would not be opposed to the vacation of the entire alley, we would also not be opposed to the vacation of this 6

inch strip of the alley.

From initial utility responses, it appears that the petitioner will need to contact WPC Engineering regarding the need for an easement.

Recommendation: Conditional Approval, contingent upon the petitioner providing utility easements or relocations as may be necessary, and for the following reasons:

- 1) The alley does not appear to be needed for either public or private access.
- 2) The alley does not appear to be needed for future growth in the area.
- 3) Approval will eliminate an existing building encroachment.

RESOLUTION

WHEREAS, ADVANCED CUTTING SYSTEMS INC has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated right-of-way situated in Fort Wayne, Allen County, to-wit:

The south six (6) inches of the 12 foot alley north of Lots #152, 153 and 154 in Vordermarks' Addition, according to the plat thereof as indicated in deed record 99, pages 450-451.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of 1963 of the General Assembly of the State of Indiana, Indiana Code, Section 36-7-3-12.

WHEREAS, notice of such public hearing has been given by due and proper publication thereof; and,

WHEREAS, said public hearing was held on September 19, 1994 at 7:00 P.M. and at such hearing there were no objections of any kind or character which should prevent the vacation of said dedicated right-of-way.

WHEREAS, said vacation of dedicated right-of-way has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated right-of-way hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated right-of-way hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said dedicated right-of-way or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

BE IT FURTHER RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said dedicated right-of-way in Allen County, Indiana.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

I, Carol Kettler Sharp, Secretary of the Fort Wayne City Plan Commission, do hereby certify that attached is a full true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held, September 26, 1994 and as the same appears of record in the official records of said Plan Commission.

DATED THIS 28th DAY OF September 1994

FORT WAYNE CITY, PLAN COMMISSION

Carol Kettler Sharp
Secretary

RESOLUTION 81-156-7

WHEREAS, ADVANCED CUTTING SYSTEMS INC has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated right-of-way situated in Fort Wayne, Allen County, to-wit:

The south six (6) inches of the 12 foot alley north of Lots #152, 153 and 154 in Vordermarks' Addition, according to the plat thereof as indicated in deed record 99, pages 450-451.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-3-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of dedicated right-of-way has been routed through the following departments: Street Engineering, Traffic Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said dedicated right-of-way hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said dedicated right-of-way hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using said portion of dedicated right-of-way or part thereof for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA)

) SS:

COUNTY OF ALLEN)

I, LINDA BUSKIRK, Director of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution adopted by the Fort Wayne Board of Public Works at their meeting held WED, OCT. 5, 1994 and as same appears of record in the official records of the Board of Public Works.

DATED THIS 5 DAY OF OCTOBER 1994

FORT WAYNE BOARD OF PUBLIC WORKS

Linda Buskirk
Linda Buskirk
Director of Public Works

C. James Owen
C. James Owen
Member, Board of Public Works

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its REGULAR Session, held on THE 25TH day of OCTOBER, 1994, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 27th day of October, 1994.

Sandra E. Kennedy

City Clerk

*The Council then
recessed until November, 1994.*